IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1040 OF 2006

1. Dhananjay Joti Chafodikar,
2. Suryabhan Raghunathrao Pawar,
3. Smt.Manisha Suhas Dange Patil,
4. Smt.Suhasini Vishwarao Ghugare,
5. Sou.Dayabai Bhagwan Power-Chavan,
6. Shri Gurudas Maruti Girage,
7. Shri Tanaji Virupaksh Swami,
8. Baburao Ramchandra Wadam. ...Applicants

V/s.

State of Maharashtra. ...Respondent

Shri R.G. Ketkar for Applicants.
Ms.S.U. Gajre, APP for the State.

CORAM : V.M. KANADE, J.

DATED : APRIL 17, 2006

P.C. :-

. Heard learned Counsel for the applicants and learned APP for the State.

. This is an application for anticipatory bail filed by the applicants who are office bearers of Shikshanshastra Adhyapak Shikshan Santha, Jawahar Nagar, Kolhapur, which is registered under the provisions of the Bombay Public Trust Act, 1950. A private complaint was filed against the present applicants in the Court of Judicial Magistrate, First Class, Kolhapur, for the

offences punishable under Sections 406, 408, 420, 465, 477(A) read with Section 34 of the IPC by the complainant who was the ex-president of the said society in which the allegation was made that the applicants had charged excess fees in respect of the B.Ed. Course during the period 2003-2004.

2. It is alleged that the documents were forged and the college was run without any permission. After the complaint was filed, the learned Magistrate directed that the investigation should be made under the provisions of Section 156(3) of the Code of Criminal Procedure.

3. Apprehending their arrest, the applicants, therefore, approached this Court. Their application for anticipatory bail was rejected by the Additional Sessions Judge, Kolhapur.

4. Learned Counsel appearing on behalf of the applicants has submitted that the complainant was the ex-president of the society and he was unanimously

removed from the Managing Committee by passing a lawful resolution and thereafter, the present complaint has been filed by him malafidely only for the purpose of harassing the present applicants. He submitted that the permission was obtained by the society for running the B.Ed. Course from the concerned authorities including the N.C.T.E. which is a parent body which regulates the norms which are to be fulfilled by the B.Ed. colleges.

5. Learned Counsel for the applicants has invited my attention to the various documents to indicate that the fees were charged by the faculty after obtaining permission from the competent authority.

6. Learned APP, on the other hand, submitted that the huge amounts were withdrawn by the present applicants from the bank without seeking the permission of the complainant who was at the relevant time president of the society. She also invited my attention to the allegations which are made in the complaint and submitted that this is not a fit case for grant of anticipatory bail.

7. Taking into consideration the facts and circumstances of the case, in my view, the applicants have made out a case for grant of anticipatory bail. The documents which are annexed to the applications clearly indicate that the applicants had obtained permission from all the authorities for the purpose of running the said B.Ed. college and even permission was obtained for charging the fees which was recovered from the students. It is apparent that the complaint appears to have been filed malafidely to harass the members of the Managing Committee who are responsible for removing the complainant. It must be noted here that in fact, the complainant himself was incharge of the admission process during the relevant period and the admissions were given under his supervision. The applicants, therefore, have made a case for grant of anticipatory bail.

8. The applicants, in the event of arrest in connection with a complaint filed by the complainant Madhukar Dattajirao Patil vide private complaint

No.35/2006 before the learned Judicial Magistrate, First Class, Kolhapur for the offence punishable under Sections 406, 408, 420, 465, 477A read with Section 34 of the IPC which is now registered as MECR case No.4/2006 at Karveer Police Station, Kolhapur, may be released on bail in the sum of Rs.10,000/- each with one or two sureties in the like amount. They shall co-operate with the Investigating Officer.

. The application is, accordingly, disposed of.

(V.M. Kanade, J.)